

**REMARKS**

Claims 28, 31 and 34 have been amended. Claims 28-34 are pending in the application.

Claims 28-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kidder (U.S. Patent 6,363,413) in view of Watanabe (U.S. Patent 6,430,354) and Boykin (U.S. Pub. No. 2001/0042048).

Amended independent claim 28, in relevant part, recites:

a storage unit that stores user-related information indicating a format of the base data previously downloaded by the user when the base data is downloaded by the user from the content server, the storage unit having a user-related information section for checking the user-related information of the base data previously downloaded by the user stored in the storage unit;

an upgrading-data generating unit for generating upgrading data ..., the upgrading-data being generated on a user-to-user basis by reviewing a usage-history of the user stored as the user-related information in the storage unit to determine the first format and then calculating the difference between the data in the first format and the data in the target format

(Emphasis added). Accordingly, a content server for distributing upgraded content data of claim 28 may store, in a storage unit, "user-related information indicating a format of the base data previously downloaded by the user when the base data is downloaded by the user" from a content server.

(Emphasis added). Claim 28 further recites upgrading data, to upgrade the previously downloaded base data of a first format to a target format specified in an upgrade request, may be generated by an upgrading-data generating unit on a user-to-user basis "by reviewing a usage-history of the user stored as the user-related information in the storage unit" to determine the first format, and then calculating the difference between the data in the first format and the data in the target format.

(Emphasis added; see specification, for example, pg. 20, ln. 21-

pg. 21, ln. 9 and pg. 23, ln. 8-13 and FIG. 4; see also pg. 64, ln. 1-8 and FIG. 7). Consequently, in response to an upgrade request from a particular user, upgrading-data may be generated by determining a (first) format of the base data previously downloaded to the particular user from stored user-related information indicating the format of the base data previously downloaded to the particular user, where the user-related information is stored in the content server when the base data is downloaded by the user.

As noted by the Examiner (see pg. 4 of Office Action), the applied portions of Kidder disclose that an upgrade request from a user includes information, such as "bit rate apportionment," that "informs" the server of the format of the (base) data previously downloaded by the user. (See Kidder, Col. 7, ln. 37-39 and Col. 7, ln. 66-Col. 8, ln. 2). Such portions of Kidder, however, do not appear to disclose storing, in a storage unit of a content server, user-related information indicating a format of the base data previously downloaded by the user from the content server when the base data is downloaded by the user from the content server, and generating updating data for the user by review of a usage history of the user which is "stored as the user-related information in the storage unit," as now specifically required by claim 28.

The applied portions of Watanabe and Boykin do not appear to cure the deficiencies of Kidder with respect to the requirements of claim 28 as described above.

Accordingly, for at least this reason, independent claim 28 is distinguishable over the applied combination of Kidder, Watanabe and Boykin.

In addition, amended independent claims 31 and 34, which include limitations corresponding to those of claim 28 described above, also are distinguishable over Kidder, Watanabe

and Boykin as applied by the Examiner for at least the same reasons.

Further, dependent claims 29, 30, 32, and 33, which depend from one of independent claims 28 and 31, are patentable over the applied combination of Kidder, Watanabe and Boykin for at least the same reasons as discussed in connection with the independent claims, and because of the additional restrictions they require.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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